## REMARKS

Claims 1 to 26 are pending in the application. Claims 1 to 26 were rejected under 35 U.S.C. §101 for not meeting the useful, concrete and tangible test for patenting. Claims 1, 2 to 5, 16 to 19 and 24 to 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown (Brown, Carolyn Spencer: "Time shares get class. Yes, time shares.; Big name hotels, more options are reinventing the industry," Washington Post, pg. E01 [Final Ed], April 29, 2001) in view of Applicant's admitted prior art. Claims 8 to 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown and Applicant's admitted prior art as applied to claim 1 above and further in view of the San Luis survey (www.boe.gov/proptaxes/pdf/40apsrhist.pdf). Claims 20-23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Brown . Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Morris (Morris, Jerry: "Timesharing: A different way to vacation." Boston globe, Page 1, March 27, 1983) in view of the skill level of one in the art. Furthermore, claims 1, 24, 25, 26 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reconsideration of the application based on the following is respectfully requested.

### A. Rejections under 35 U.S.C.§ 101

Claims 1 to 26 were rejected under 35 U.S.C. §101 for not meeting the useful, concrete and tangible test for patenting.

The present claims describe a useful process- namely for more efficiently operating a combined hotel/time share facility- which is certainly not abstract or any less useful than operating another facility such as a nuclear power plant. Even if the present claims were a "business model" which they are not, methods of doing business are not only specifically allowed, but are statutorily permitted. They merely must be useful, and providing an efficiently operating hotel/time share facility is certainly useful, as it can permit better operation, and even financing and construction of new facilities where none were before possible. See 35 U.S.C. 273 (a)(3) and MPEP 2106.

Withdrawal of the rejections under 35 U.S.C. §101 is respectfully requested.

B. Rejections under 35 U.S.C. §103(a)

Claims 1, 2 to 5, 16 to 19 and 24 to 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of admitted prior art.

Brown discloses prior art similar to that in [0006] of the present application

Neither Brown nor the admitted prior art show the limitation of claim 1 of:

"yearly sales and marketing expenses related to sales attempts for non-peak period timeshares of similar duration and quality as the peak period timeshares being less than the yearly peak period expenses."

Even given the Brown and the APA, there would be numerous ways to address the issues. Nothing in Brown or APA suggests the actual claim limitation language, and tellingly the Office Action fails to address the language of claim 1 at all. And none of the other claim language is addressed as well. Claim language defined the scope of the invention, and an obviousness rejections simply fail to make a prima facie assertion that the ***claimed*** invention would be obvious.

Claims 8 to 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown and the admitted prior art as applied to claim 1 above and further in view of San Luis survey, and claims 20 to 23 in view of Brown alone.

In view of the above, withdrawal is respectfully requested.

***With respect to claims 14 and 15, the office action fails to address how Morris relates to claim 1, from which claims 14 and 15 depend and is in clear error. Morris does not show the steps of claim 1.***

Withdrawal of the rejections under 35 U.S.C. §103(a) is respectfully requested.

C. Rejections under 35 U.S.C. §112, second paragraph

Claims 1, 24, 25, 26 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out the and distinctly claim the subject matter which applicant regards as the invention.

The terms are sufficiently definite to one of skill in the art, and can be simply understood from common dictionary definitions, which are certainly definite. The yearly sales and marketing expenses are clearly described in the specification and these terms have clear and definite meaning within the timeshare/hotel industry.

Withdrawal of the rejections under 35 U.S.C. §112, second paragraph, is respectfully requested.

## CONCLUSION

The present application is respectfully submitted as being in condition for allowance and applicants respectfully request such action.

Respectfully submitted,
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